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1-5-2010

# PROHIBITS STATE FROM TAXING COMMUNITY HOSPITALS TO OBTAIN FEDERAL FUNDS FOR MEDICAL UNLESS CERTAIN REQUIREMENTS ARE MET. INITIATIVE CONSTITUTIONAL AMENDMENT

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PROHIBITS STATE FROM TAXING COMMUNITY HOSPITALS TO OBTAIN FEDERAL FUNDS FOR MEDICAL UNLESS CERTAIN REQUIREMENTS ARE MET. INITIATIVE CONSTITUTIONAL AMENDMENT California Initiative 1422 (2010). [http://repository.uchastings.edu/ca\\_ballot\\_inits/1622](http://repository.uchastings.edu/ca_ballot_inits/1622)

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**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS


1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | [www.sos.ca.gov](http://www.sos.ca.gov)

July 1, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10213

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Elections Specialist

RE: Initiative: Failure of #1422, Related to State and Federal Funding of Hospitals

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named initiative constitutional amendment filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: PROHIBITS STATE FROM TAXING COMMUNITY HOSPITALS TO OBTAIN FEDERAL FUNDS FOR MEDICAL UNLESS CERTAIN REQUIREMENTS ARE MET. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY DATE: January 6, 2010

PROPONENT: Thomas W. Hiltachk



**DEBRA BOWEN | SECRETARY OF STATE**  
**STATE OF CALIFORNIA | ELECTIONS**

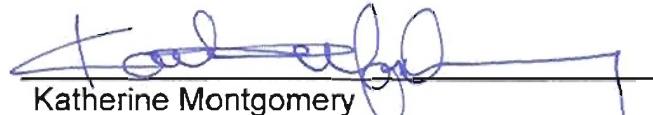
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

January 6, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10002

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: 1422, Related to State and Federal Funding of Hospitals

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**PROHIBITS STATE FROM TAXING  
COMMUNITY HOSPITALS TO OBTAIN  
FEDERAL FUNDS FOR MEDI-CAL UNLESS CERTAIN  
REQUIREMENTS ARE MET. INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Thomas W. Hiltachk  
455 Capitol Mall, Suite 801  
Sacramento, CA 95814

(916) 442-7757

#1422

**PROHIBITS STATE FROM TAXING  
COMMUNITY HOSPITALS TO OBTAIN  
FEDERAL FUNDS FOR MEDICAL UNLESS CERTAIN  
REQUIREMENTS ARE MET. INITIATIVE CONSTITUTIONAL AMENDMENT.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: .....694,354  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Tuesday, 01/05/10
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Tuesday, 01/05/10
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)) ..... Friday, 06/04/10
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)) ..... Wednesday, 06/16/10  
  
(If the Proponent files the petition with the county on a date prior to  
06/04/10, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties ..... Friday, 06/25/10\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)) ..... Friday, 08/06/10

\* Date varies based on the date of county receipt.

## INITIATIVE #1422

### Circulating and Filing Schedule continued:

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 06/25/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (Elec. Code §§ 9030(f)(g), 9031(a)) ..... Monday, 08/16/10\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). ..... Wednesday, 09/29/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 08/16/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)..... Sunday, 10/03/10\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



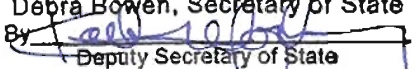
1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
Public: (916) 445-9555  
Telephone: (916) 445-4752  
Facsimile: (916) 324-8835  
E-Mail: Krystal.Paris@doj.ca.gov

January 5, 2010

**FILED**  
In the office of the Secretary of State  
of the State of California

JAN 05 2010

Honorable Debra Bowen  
Secretary of State of the State of California  
State of California Elections  
1500 11th Street, 5th Floor  
Sacramento, CA 95814

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

Attention: Ms. Katherine Montgomery  
Associate Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code section 9004, you are hereby notified that on this day we sent our title and summary for each of the following proposed initiatives to the respective proponents:

- 09-0073, RE: Community Hospital Taxes. [V-1.]
- 09-0074, RE: Community Hospital Taxes. [V-2.]
- 09-0079, RE: Community Hospital Taxes. [V-3.]
- 09-0081, RE: Community Hospital Taxes. [V-4.]
- 09-0082, RE: Community Hospital Taxes. [V-5.]
- 09-0083, RE: Community Hospital Taxes. [V-6.]
- 09-0084, RE: Community Hospital Taxes. [V-7.]

A copy of the title and summary and text of each of the proposed initiative is enclosed.

Please contact me if you have any questions. Thank you.

Sincerely,



KRYSTAL M. PARIS  
Initiative Coordinator

For EDMUND G. BROWN JR.  
Attorney General

January 5, 2010

Page 2

Proponents:

Thomas W. Hiltachk

Charles H. Bell, Jr.

455 Capitol Mall, Suite 801

Sacramento, CA 95814



The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**PROHIBITS STATE FROM TAXING COMMUNITY HOSPITALS TO OBTAIN  
FEDERAL FUNDS FOR MEDI-CAL UNLESS CERTAIN REQUIREMENTS ARE MET.**

**INITIATIVE CONSTITUTIONAL AMENDMENT.** Prohibits state from imposing tax on community hospitals to obtain federal Medi-Cal funds unless tax proceeds are used to obtain federal matching funds of a specified amount. Requires depositing proceeds into trust fund subject to audit. Requires using proceeds to reimburse state for Medi-Cal collection and administration costs, make payments to hospitals, provide health coverage for low-income children, and increase Medi-Cal reimbursements to hospitals. Prohibits using proceeds to replace specified existing funding. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **This measure could affect the ability of the state to impose and collect revenues related to hospital charges and additional federal reimbursements. This could have a further impact on local government finances, particularly counties. In some situations, this measure could result in greater pressures for additional state spending than would otherwise occur. (09-0073.)**

THOMAS W. HILTACHK

455 Capitol Mall, Suite 801  
Sacramento, California 95814  
(916) 442-7757

November 4, 2009

Initiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

09 - 0073  
**RECEIVED**  
NOV 04 2009  
INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Paris:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code section 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Should you have any questions or require additional information, please contact me at 455 Capitol Mall, Suite 801, Sacramento, CA 95814 or (916) 442-7757. Thank you.

Very truly yours,

Thomas W. Hiltachk

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

## SECTION 1. STATEMENT OF FINDINGS

- A. Federal law requires hospitals to care for every man, woman, and child who enters an emergency room regardless of that person's ability to pay or whether that person has health insurance.
- B. Providing emergency care to these patients costs California hospitals billions of dollars each year. As a result, health care costs for all Californians are increasing and many community hospitals and emergency rooms have been forced to close.
- C. The federal government has a program to help states pay for hospital services provided to low-income patients, including children. However, to receive federal matching funds, a state has to contribute its own money.
- D. For a number of years, our State Legislature has not committed the money necessary to match available federal funds. Consequently, California's share of federal health care funds is not being paid to our community hospitals for the services they provide.
- E. Several other states have imposed taxes on hospitals in order to obtain additional federal health care funds. However, in some of those states, their Legislatures have diverted the funds for other purposes.

## SECTION 2. STATEMENT OF PURPOSE

Therefore, the people hereby amend the Constitution to:

- A. Prohibit the Legislature from imposing a tax, fee, or assessment on community hospitals for the purpose of obtaining federal health care funds unless the money is used to reimburse community hospitals providing hospital services to low-income patients;
- B. Require that all proceeds of the tax, fee, or assessment and the federal money obtained be placed in a Trust Fund, subject to state audit; and
- C. Require that any amendment to these restrictions must be approved by a vote of the people.

## SECTION 3. MEDI-CAL HOSPITAL RATE STABILIZATION TRUST FUND

Section 3.5 of Article XVI of the California Constitution is added to read as follows:

Sec. 3.5(a) The Legislature shall not impose, nor shall the state collect, a tax, fee, or other assessment on community hospitals for the purpose of obtaining federal financial participation in the Medicaid program unless:

- (1) The proceeds of the tax, fee, or assessment used for increased Medi-Cal reimbursements to community hospitals are matched by the federal government with at least fifty-five (55) dollars for every forty-five (45) dollars generated by the tax, fee, or assessment;
  - (2) The proceeds of the tax, fee, or assessment, including the amount provided by the federal government and all interest earned on such proceeds, are deposited into a Trust Fund created in the State Treasury and subject to annual state audit;
  - (3) The proceeds of the tax, fee, or assessment are used to reimburse the state for the actual cost of collection and administration of the program; make payments to public community hospitals; and from such proceeds, up to fifteen percent (15%), but no less than ten percent (10%), to provide health care coverage for the children of low-income families. The remainder of the proceeds of the tax, fee, or assessment, and the amount provided by the federal government and all interest earned on such proceeds, are used to increase reimbursements to community hospitals, whether paid directly or through third party payers, for hospital services provided to Medi-Cal patients;
  - (4) The rate of tax, fee, or assessment does not exceed the maximum rate for which federal financial participation is available under Medicaid;
  - (5) The state obtains all necessary approvals for the tax, fee, or assessment and related increase in Medi-Cal reimbursements from the federal Centers for Medicare and Medicaid Services;
  - (6) Medicaid payments for hospital services covered under the Medicaid program do not exceed the amount for which federal financial participation is available under Medicaid; and
  - (7) The proceeds of the tax, fee, or assessment, including the amount provided by the federal government and all interest earned on such proceeds, are not used to supplant existing funding for hospital services provided to Medi-Cal patients.
- (b) For purposes of this section:
- (1) "Community hospitals" means general acute care hospitals licensed by the state. Hospitals operated and funded by the federal government are not "community hospitals."
  - (2) "Existing funding for hospital services" means the amount expended from appropriations by the Legislature from the State General Fund for hospital services provided to Medi-Cal patients in the fiscal year in which the tax, fee, or assessment is enacted, or in the preceding fiscal year, whichever is greater. Any amount appropriated from the Hospital Quality Assurance Revenue Fund created pursuant to Welfare and Institutions Code section 14167.35, as of January 1, 2010 shall not be considered "existing funding for hospital services."

- (3) "Public community hospitals" means hospitals that are licensed to a county, city and county, or the University of California.
- (4) The proceeds of the tax, fee, or assessment shall not be considered General Fund revenues, General Fund proceeds of taxes, or allocated local proceeds of taxes, for purposes of Section 8 of this Article.

#### SECTION 4. GENERAL PROVISIONS

- A. This measure may only be amended by a vote of the people pursuant to Article XVIII of the California Constitution.
- B. If any provision of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.